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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,634	02/08/2006	Dieter Guldenfels	031529.00106	1297
26712 7590 04/04/2008 HODGSON RUSS LLP THE GUARANTY BUILDING 140 PEARL STREET SUITE 100 BUFFALO, NY 14202-4040				
EXAMINER				
DEUBLE, MARK A				
ART UNIT		PAPER NUMBER		
3651				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/567,634

Applicant(s)

GULDENFELS ET AL.

Examiner

Mark A. Deuble

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/31/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guldenfels (U.S. Pub. No. 2002/0195321) or Costanzo (U.S. Pub. No. 2001/0045346) in view of Nakamura.

Both Guldenfels and Costanzo show a belt module for use with a headed pivot rod having a plurality of first and second links with intercalating link ends with openings formed therein for reception of a pivot rod. An edge portion of each module has a pivot rod opening in line with the other openings in the link ends that is larger in diameter than the other pivot rod openings in order to accommodate the heads on the pivot rods and so that the pivot rod can only be removed in one transverse direction. However, neither of the belt modules employs a robust means for keeping the rods in the belt. Nakamura teaches that the blocking member and slot arrangement described above advantageously keeps the pivot rods from migrating out of the belt. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the belt modules of Guldenfels or Costanzo with a slot and blocking member arrangement of the type shown in Nakamura in order to prevent the pivot rods from migrating out of the belt modules. When this is done, the resulting apparatus would have all the structure required by claims 1-17.

2. Claims 1-6, 8-14, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over (U.S. Pub. No. 2002/0195321) or Costanzo (U.S. Pub. No. 2001/0045346) in view of Verdigets et al. (U.S. Patent No. 5,904,241).

Both Guldenfels and Costanzo show a belt module for use with a headed pivot rod having a plurality of first and second links with intercalating link ends with openings formed therein for reception of a pivot rod. An edge portion of each module has a pivot rod opening in line with the other openings in the link ends that is larger in diameter than the other pivot rod openings in order to accommodate the heads on the pivot rods and so that the pivot rod can only be removed in one transverse direction. However, neither of the belt modules employs a robust means for keeping the rods in the belt. Verdigets et al. teaches that the blocking member and slot arrangement described above advantageously keeps the pivot rods from migrating out of the belt. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the belt modules of Guldenfels or Costanzo with a slot and blocking member arrangement of the type shown in Verdigets et al. in order to prevent the pivot rods from migrating out of the belt modules. When this is done, the resulting apparatus would have all the structure required by claims 11-6, 8-14, and 16-17.

Response to Arguments

In response to these rejections, the applicant argues that one of ordinary skill in the art would not combine the teachings of Nakamura or Verdigets with Costanzo or Guldenfels because nothing in Costanzo or Guldenfels teaches that there is a problem associated with using headed pivot rods. While it may be true that neither Costanzo nor Guldenfels has any specific teaching that they have any problems associated with the headed pivot rods they employ, it is

exceedingly rare for a patent to lay out its short comings within its text. If specific teachings of a patent's own problems were required in order to combine the teachings of two references, 103 rejections would be extremely uncommon. People of ordinary skill in the art seek to improve upon prior patents constantly even though the patents themselves do not suggest their own deficiencies because it is clear that, even when an apparatus is adequate for its intended purpose, it is still desirable to improve upon it. Here, it would have been obvious to one of ordinary skill in the art to use the teachings of Nakamura and Verdigets that their slot and blocking member arrangements ensure that pivot rods stay within the links to improve the devices of Costanzo or Guldenfels.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Deuble whose telephone number is (571) 272-6912. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark A. Deuble/
Primary Examiner
Art Unit 3651

md